

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN DUANE GRIMES**, on March 13, 2003 at 9:00 A.M., in Room 303 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Duane Grimes, Chairman (R)  
Sen. Dan McGee, Vice Chairman (R)  
Sen. Brent R. Cromley (D)  
Sen. Aubyn Curtiss (R)  
Sen. Jerry O'Neil (R)  
Sen. Gerald Pease (D)  
Sen. Gary L. Perry (R)  
Sen. Mike Wheat (D)

**Members Excused:** Sen. Jeff Mangan (D)

**Members Absent:** None.

**Staff Present:** Judy Keintz, Committee Secretary  
Valencia Lane, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 256, HB 224, HB 240, HB 222,  
3/10/2003  
Executive Action: HB 240, HB 224, HB 256, HB 14

**HEARING ON HB 256**

**Sponsor:** REP. JIM SHOCKLEY, HD 61, VICTOR

**Proponents:** Bill Johnston, Montana University System

**Opponents:** None

**Opening Statement by Sponsor:**

REP. JIM SHOCKLEY, HD 61, VICTOR, introduced HB 256. He explained the policemen on campus have jurisdiction on university property adjacent to the campus. They also have jurisdiction within a one mile area of the campus, if the activity is related to the university. Within the one-mile area, their jurisdiction is concurrent with the local police. House Bill 256 allows for an agreement between the local police chief and campus security to define primary jurisdiction. There were no opponents at the hearing in the House Judiciary Committee.

**Proponents' Testimony:**

Bill Johnston, Montana University System, remarked that the bill allows each campus the latitude to reach a mutual agreement with the city police in regard to mutual aid. In Missoula, there was a case where a hostage was taken and the campus security assisted. They were outside their jurisdictional unit during this activity.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

CHAIRMAN DUANE GRIMES questioned the extent of the jurisdiction involving campus security. REP. SHOCKLEY stated existing statute provides for jurisdiction over campus related activities within the one mile radius. The bill allows for the city police to work out an agreement with campus security to determine primary jurisdiction. The City Police Department could expand the jurisdiction of campus security beyond the current provisions.

SEN. DAN MCGEE questioned why campus security was not being upgraded to officers of the law. In the past, campus security was a joke. REP. SHOCKLEY remarked the Highway Patrol is limited in what they are able to do simply because of a turf war with the sheriff's departments. The police chiefs in Missoula, Bozeman

and Billings do not want to be in conflict with the chiefs of campus security. **Mr. Johnston** added that the police officers on the Missoula campus are certified peace officers. They have gone through the law enforcement academy.

**SEN. MCGEE** questioned whether they were still viewed as campus security. **Mr. Johnston** noted that the students on the campuses today have more respect for campus security than has been the case in the past.

**SEN. MCGEE** asked what badge they wore. **Mr. Johnston** explained that their badge was a campus security badge.

**SEN. GARY PERRY** asked **Bill Slaughter, Department of Corrections**, to express his opinion on the bill. **Mr. Slaughter** explained that at Montana State University these individuals are considered police officers. They are highly respected and well trained. They attend the Montana Law Enforcement Academy and are certified law enforcement officers. This bill will formalize the good working relationship between the two agencies.

**SEN. JERRY O'NEIL** asked why campus security was not allowed to serve process on students living in the dormitories or in the fraternity houses. **Mr. Slaughter** explained that normally civil service process is handled by the Sheriff's Office. Campus security serve traffic summons and city summons.

**SEN. BRENT CROMLEY** remarked if no agreement was reached, the campus security would actually have less authority than is currently the case. He questioned the current relationships between campus security and the local police departments in the various communities which have campuses. **Mr. Johnston** maintained that the Chief of Police in each community was notified of the bill and had an opportunity to provide questions or concerns. This was done in Billings, Bozeman and Missoula. They agreed with the bill. In Missoula, there is an excellent working relationship between campus security and the Missoula Police Department.

**SEN. MCGEE** asked **Mr. Slaughter** what he believed to be the perception of the students in regard to campus security. **Mr. Slaughter** stated the well-trained campus security personnel were respected by the students. The perception is that they are professional law enforcement officers. Due to the size of the campuses, there are some security duties necessary in addition to law enforcement.

**SEN. MIKE WHEAT** remarked that the one mile radius around the Bozeman campus would take in a large amount of residential areas

that have no relationship to the university. The agreement would divide primary jurisdiction between city police and campus police. He questioned how the one-mile area was set. **REP. SHOCKLEY** stated this is a carry over from the past. The City Police Chief would be in the driver's seat and could use campus security to a greater or lesser extent than is currently the case.

**SEN. WHEAT** questioned whether the agreement could provide that if the City Police Department had an emergency, they could call upon campus police for assistance and utilize their services at any location. **REP. SHOCKLEY** explained that the legislation included the agreement worked out with the City Police Departments.

**Closing by Sponsor:**

**REP. SHOCKLEY** closed on HB 256.

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**HEARING ON HB 224**

**Sponsor:** **REP. JIM SHOCKLEY, HD 61, VICTOR**

**Proponents:** **Beth McLaughlin, Montana Supreme Court  
Administrator's Office**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**REP. JIM SHOCKLEY, HD 61, VICTOR**, introduced HB 224. This bill provides that standing masters will not serve at the pleasure of district court judges. They will have two-year contracts and their pay will be set by the state system. New standing masters will not be provided by the general budget.

**Proponents' Testimony:**

**Beth McLaughlin, Montana Supreme Court Administrator's Office**, maintained standing masters would not have a salary set by the judge but by the Judicial Branch Pay Plan. They would have certain employment rights and would not serve at the pleasure of the judge. New Section 2 repeals a portion of law that addresses water masters being members of the Public Employees Retirement System. This is redundant since they are already members as state employees.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SEN. WHEAT** asked whether the funding would include money paid by the counties to the state general fund. **REP. SHOCKLEY** believed everyone in the judicial system was a state employee. The county would pay the expense to the Supreme Court.

**SEN. CROMLEY** remarked that the fiscal note stated the legislation would not affect currently employed state-funded standing masters. **REP. SHOCKLEY** explained this would be prospective.

**SEN. WHEAT** noted that the standing masters would be state employees. The district court would not have any say in regard to their employment. **REP. SHOCKLEY** explained that a two-year contract was involved.

**Closing by Sponsor:**

**REP. SHOCKLEY** closed on HB 224.

**HEARING ON HB 240**

**Sponsor:** **REP. JIM SHOCKLEY, HD 61, VICTOR**

**Proponents:** **Diana Koch, Chief Legal Counsel, Department of Corrections**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**REP. JIM SHOCKLEY, HD 61, VICTOR**, introduced HB 240. He stated that after a conviction, a sentencing date is set for sometime in the future giving the Department of Corrections time to complete a pre-sentence investigation. The county attorney drafts the judgment and sends it to the judge for his signature. The judgment then goes to the sheriff. The bill states that the day the individual is sentenced, an order is signed and entered on the record within 30 days after the oral pronouncement of the disposition of the case.

**Proponents' Testimony:**

**Diana Koch, Chief Legal Counsel, Department of Corrections (DOC)**, stated that this legislation has been needed for some time. When an individual is sentenced to the DOC, there are times when the department waits from 30 to 180 days to receive a written judgment. Currently, the DOC is paying an average of approximately \$50 a day to hold the person in the county jail. They cannot take the person to the prison until the judgment is ready.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SEN. O'NEIL** asked how the sheriff would know where to take an individual who is committed to the DOC. **Ms. Koch** explained that the placement may be set at the time of the sentencing and the person would go from the jail on their own to the placement in pre-release or to an intensive supervision placement. Males go to the Missoula Assessment and Sanctions Center and females go to the Billings equivalent.

**Closing by Sponsor:**

**REP. SHOCKLEY** closed on HB 240.

**EXECUTIVE ACTION ON HB 240**

**Motion/Vote:** **SEN. WHEAT** moved that **HB 240 BE CONCURRED IN**. The motion carried unanimously.

**EXECUTIVE ACTION ON HB 224**

**Motion:** **SEN. MCGEE** moved that **HB 224 BE CONCURRED IN**.

**Discussion:**

**REP. CROMLEY** raised a concern that masters funded by the county were being singled out. Under the new system, everything else would be funded by the state.

**SEN. WHEAT** was also concerned. The district judges would go to the county for help covering their budget. The funding would go to the state.

**CHAIRMAN GRIMES** believed this was already in existence. The only reason this addressed the counties was because this is where the masters were located.

**SEN. WHEAT** pointed out that the language stated the governing body of the county or counties or of a consolidated city-county government served by the district court may provide funding to the state district court program. He understood the county would be providing the funding to the district court program. The district court program is funded by the general fund. His concern was the county would be paying for items that should be covered under state assumption.

Further executive action on HB 224 was postponed until a later date.

*{Tape: 2; Side: A}*

#### HEARING ON HB 222

**Sponsor:** REP. JOHN PARKER, HD 45, GREAT FALLS

**Proponents:** Bill Slaughter, Director of the Department of Corrections  
Diane Koch, Legal Counsel, Department of Corrections  
Bud Walsh, Probation/Parole Officer, DOC  
Monty Le Texier, Probation/Parole Officer, DOC  
Chad Field, DOC, Divisional Training Officer  
Cathy Gordon, Deputy Compact Administrator for the Interstate Unit of Montana, DOC,

**Opponents:** None

#### **Opening Statement by Sponsor:**

**REP. JOHN PARKER, HD 45, GREAT FALLS,** introduced HB 222. He stated the bill attempts to clarify the district court judge's authority for handling a case involving a felony sentence which is being revoked pursuant to a suspended sentence or a deferred sentence. It wasn't clear that a judge should have the authority to revoke either a portion of the sentence or the entire sentence. The amendment on page 10, line 9, would clarify that when a defendant has failed on probation, the judge would not be required to revoke the entire sentence. A judge may decide that

a sentence should be revoked and the defendant committed to the Department of Corrections (DOC) for a portion of their suspended time but perhaps not the entire time. On page 10, Section 2, the bill states that the offender shall pay for an interstate transfer. As the fiscal note indicates, this will add \$27,500 to the state budget. On page 11, Section 3 addresses a sentence to boot camp. Under current law when an individual is sentenced to boot camp and after completion of the program, the individual is automatically brought back before the judge. They can petition the judge to consider whether or not the rest of their sentence should be automatically suspended. This will afford the district court judge more discretion. On page 12, Section 4, there is a narrowly tailored arrest option for a probation and parole officer with regard to a person who is not on their caseload. When a probation or parole officer is brought into a situation where another person not on their caseload is committing an offense or trying to obstruct the supervision, this can be a dangerous situation. The bill provides that the standard procedure will be an interagency assist request from the local county sheriff or city police force.

#### **Proponents' Testimony:**

**Bill Slaughter, Director of the Department of Corrections,** noted that presently probation and parole officers have the ability and the authority to hold offenders accountable for a portion of the cost of supervision. Currently approximately 6,500 persons are on probation or parole with approximately 300 of these offenders on intensive supervision and over 500 of these offenders are on conditional release. This statute provides the ability to collect supervision fees. There is a \$50 fee to offset the costs of requesting to have supervision transferred to another state. The DOC pays approximately \$18,000 to belong to the interstate compact. This legislation will also allow the judge to automatically give a sentence reduction. The most important part of the bill is that probation and parole officers will be given additional authority. This is placed under the citizen's arrest statutes. These officers spend every day with proven felons. Their jobs become increasingly dangerous.

**Diane Koch, Legal Counsel, Department of Corrections,** noted that page 10, Section 1, is difficult to understand. The judge usually sentences the offender to the DOC. If an offender is sentenced to ten years with five suspended, the person may go to prerelease for five years and then go onto the five years of the suspended sentence. If the probation is violated, the offender appears before the judge for a revocation hearing on the five year suspended commitment to the DOC. According to current statute, the judge can only impose a DOC commitment because the judge can impose the sentence or a lesser sentence. The sentence



to the DOC is a lesser sentence than a sentence to prison. The change would enable the judge to send that person to prison. On the revocation, the judge can impose any sentence that the judge could have imposed at the time of sentencing. On the revocation of the DOC commitment, the judge could impose the prison sentence. This is up to the judge. Section 3 of the bill is similar to HB 29 that has already passed the Senate and the House and is on the Governor's desk. It would be good to have a coordination clause to coordinate with HB 29. The first part of Section 3 states that a judge cannot impose a lesser sentence on a reduction from boot camp. The judge can only take the sentence available and suspend all or a part of it. The second section of HB 29 contains language not covered in HB 222. This involves seeking the concurrence of the prosecutor.

**Bud Walsh, Probation/Parole Officer, DOC,** presented his written testimony in support of HB 222, **EXHIBIT(jus53a01)**.

**Monty Le Texier, Probation/Parole Officer, DOC,** presented his written testimony in support of HB 222, **EXHIBIT(jus53a02)**.

**Chad Field, DOC, Divisional Training Officer,** stated that probation and parole officers attend a four week basic course at the Montana Law Enforcement Academy. The officers are taught to error on the side of caution. If they have the ability to use law enforcement and they are available, they do so. Many communities in Montana have only one officer. Their officers travel long distances and law enforcement may be 30 minutes away. Probation and parole officers have the same amount of training in firearms and tactics as law enforcement officers. They are trained on interpersonal skills to include de-escalation.

**{Tape: 2; Side: B}**

**Cathy Gordon, Deputy Compact Administrator for the Interstate Unit of Montana, DOC,** reported there are 1,100 people on their caseload in the interstate unit. This includes offenders who have transferred into and out of our state. Last year 341 offenders from other states came into Montana but 550 offenders left the state. The fee will help recover the \$18,000 fee to be a part of the interstate commission. The fee also makes the offender accountable for his or her actions and also more responsible for their part in the supervision.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. WHEAT** noted Section 4 originally contemplated giving probation and parole officers the right to arrest. He asked the difference between detaining a person and taking a person into custody. **Mr. Slaughter** maintained that the Sheriff's and Police Officers Association liked the word "detain". The difference will be that they want the opportunity to arrive at the scene and intervene. If someone's movement is restricted, technically they have been arrested. Officers have the right to protect their safety. They would be able to limit the movement of the citizen who is interfering at the scene and then let the officers come to the scene to investigate.

**SEN. WHEAT** remarked that if a parole officer saw a crime being committed, he would have the right as a citizen to make a citizen's arrest. **Mr. Slaughter** affirmed and added that the citizen's arrest statute also delineates a shopkeeper from a citizen. They want to have the probation and parole officers delineated as well. An arrest would mean that the offender would be transported to the county jail.

**SEN. WHEAT** summarized it was his understanding that detaining a person would involve restraining the person, making sure they were unable to get away, and padding the person to make sure they do not have a weapon. **Mr. Slaughter** added the officers are also trained in de-escalating the situation. If the officer felt his life was in jeopardy and he needed to restrain the person, he would do so.

**SEN. O'NEIL** remarked that approximately 500 offenders leave the state annually while approximately 350 offenders enter the state. Since the prison at Shelby is not filled to capacity, this did not make sense to him. **Mr. Slaughter** explained the offenders are on probation and would not be people in custody. The offenders may have found a job here or have family here and move into Montana. They are supervised by the DOC. Our offenders are also able to move to another state and be supervised there.

**SEN. PERRY** asked whether a parole officer would be alone when he went into a home to check on a parolee. **Mr. Field** noted that was not the best practice. In larger towns, there is the option of another probation and parole officer being present. In the smaller counties, they may be on their own. If an officer goes to a residence alone, they need to be qualified with a weapon.

**CHAIRMAN GRIMES** questioned the coordination between this bill and HB 29. **Ms. Koch** explained the first section of HB 29 is the same

as Section 3 of HB 222. Section 2 of HB 29 is different and adds new language. She suggested a coordination instruction.

**Closing by Sponsor:**

**REP. PARKER** closed by saying that this bill adds a reasonable degree of flexibility and cost management for community corrections programs.

**EXECUTIVE ACTION ON HB 224**

**Motion:** **SEN. WHEAT** moved that **HB 224 BE CONCURRED IN.**

**Discussion:**

**CHAIRMAN GRIMES** asked **Beth McLaughlin, Montana Supreme Court**, to clarify whether the county's responsibilities would be different from the current assumption practices. **Ms. McLaughlin** explained the bill was developed to deal with the current standing masters who were included with district court assumption. There are three standing masters. The intent was to make it clear that the standing masters, who are currently state employees, are subject to the judicial branch pay plan and work for the judge. They can only be terminated for cause. The second portion of the bill was to allow counties, at the county's option and request, to fund an additional standing master position, if they wished to do so.

**SEN. CROMLEY** asked where the standing masters were located. **Ms. McLaughlin** reported two of the standing masters were located in Missoula and one was located in Havre.

**SEN. CROMLEY** noted the three current masters would continue to be state employees but masters in the future would be paid for by the counties. This seemed to be unfair.

**SEN. MCGEE** remarked that this is a permissive issue on the part of the counties. It is his understanding that MACo had no objection. He questioned whether the money went directly to the master who would be a county employee or whether the money went to the state and then was returned to the individual. **Ms. McLaughlin** explained the money would come from the county to the state and the employee would be paid as a state employee because they would be working directly for the judge. She added that this is permissive for the counties.

**CHAIRMAN GRIMES** asked for more clarification of the two separate classes of masters. **Ms. McLaughlin** maintained that before SB 176, employees of the various courts were defined in different

parts of statute. If a county wants to pay for a standing master for two years, they would be agreeable as long as they were on the state pay plan and they received the same salary as other standing masters and they would answer to the judge.

**{Tape: 3; Side: A}**

**SEN. CROMLEY** remarked his understanding is the three masters are paid by the state through a combined fund but any new masters appointed hereafter would be specifically paid for by the county requesting it. **Ms. McLaughlin** affirmed and added the judicial branch could make a request in a future session for a new standing master funded by the state.

**SEN. O'NEIL** questioned whether the law clerks would be paid by the state or by the county. **Ms. McLaughlin** answered the law clerks were assumed by the state and are paid by the state.

**SEN. O'NEIL** noted if a county wanted another master, the county could hire another law clerk and have the law clerk be a part-time master. **Ms. McLaughlin** claimed the county would not have the authority to tell the state to hire a new law clerk. County officials could suggest the court was understaffed, but if the court did not have the funding or the FTE, there would be no ability to hire a new law clerk.

**SEN. WHEAT** noted that standing masters were important in the busy districts where the court's caseloads are growing. This becomes a funding mechanism for the district court by the counties and the state has agreed to assume all the costs. If a district court goes to the Supreme Court and asks for a standing master, they will be told the budget is too tight and they need to go back to the county commissioners for funding.

**CHAIRMAN GRIMES** explained the options were: 1) eliminate the current masters; 2) fund all masters; or 3) set standards to apportion masters across the state. Getting this legislation on the books will allow a mechanism for masters to be included in the future.

**SEN. WHEAT** asked **Ms. McLaughlin** if she would be agreeable to an amendment which allowed a county to fund a standing master and then if, after four years, the position was still funded by the county, it would then become the responsibility of the state to fund the position.

**CHAIRMAN GRIMES** suggested making this permissive so that at the end of two years the funding could be assumed.

**SEN. WHEAT** added this would address the concern of having two categories of standing masters. One group would have been assumed under state assumption and those standing masters would be state employees. The other group would be different in that they would have two-year contracts and their funding would come from the county. **Ms. McLaughlin** did not have a concern conceptually. The concern would be on the budgeting side. They do not have the authority to add FTEs or positions to their budget. They do not have the authority to add money to their budget. They need to request this from the Legislature. The language would need to be permissive.

**SEN. O'NEIL** stated the county will fund a special master for two years and after the two-year time period, the county would request the state to fund the standing master. The county would be able to show a considerable savings in having a standing master perform the work instead of a judge.

**SEN. CROMLEY** raised a concern with the unfairness of the bill. Missoula has two masters and Havre has one master.

**SEN. WHEAT** withdrew his motion.

#### **EXECUTIVE ACTION ON HB 256**

**Motion:** **SEN. PERRY** moved that **HB 256 BE CONCURRED IN.**

**Substitute Motion:** **SEN. O'NEIL** moved that **HB 256 BE AMENDED.**

#### **Discussion:**

**SEN. O'NEIL** explained his amendment. On line 18, he would strike the words "within one mile" and replace the language with "outside". This would read: "If an agreement is reached under (3) in an area outside of the exterior boundaries of each campus."

**SEN. PERRY** noted the counties have also agreed to the one mile area. There has been a lot of progress made in this regard. The reason for the one mile specification was to be similar to the agreement that city police have with the county sheriff's departments. The city and campus police already have agreements of cooperation.

**Vote:** **Motion failed 1-7 with O'NEIL voting aye.**

**SEN. CROMLEY** could not imagine an area where the campus police should be given primary jurisdiction.

**SEN. MCGEE** did not believe the bill required the campus security to have primary jurisdiction. The language states there will be an agreement reached between law enforcement and the campus security. The biggest problem he had with the bill was that these individuals are still referred to as "security officers" when they are "police officers".

**SEN. WHEAT** asked who would approve the agreement.

**SEN. O'NEIL** questioned whether the campus police were on the 911 system.

**Mr. Johnston** explained the response would be dependent on how the agreement was tailored. The call would be made to the city police and the dispatchers would handle the matter. The intent of the bill is not to replace the city police in that jurisdiction. If a citizen lives one block off of campus and there are students throwing water balloons, the city police would be called but they may have a major event going on and there is no one to respond, the campus police would be able to assist. If a burglary is in progress, campus police would not be responding. If there is an emergency and the city does not have the manpower available, they could call upon the campus police. In the university system, all agreements work through the legal counsel to the President, CEO, or Dean of that campus. Nothing can be signed without that review. Overall, the Regents would review the agreements.

**{Tape: 3; Side: B}**

The city council must have some type of review over the city police chief.

**SEN. CROMLEY** remarked the bill would allow an agreement to be made for the campus security to have primary jurisdiction in some area. This would make them the first responders. He asked for an example of a situation wherein the campus security should have primary jurisdiction under the agreement provided for in the bill. **Mr. Johnston** understood that the bill would provide for negotiations between the chief of the city force and the chief of the campus force to determine what would be included under primary response. If they determined that a life-threatening situation should always be handled by city police force first, this would be in the agreement. In Missoula there was a hostage situation off of South Reserve Street. A gentleman had a rifle and took his own family hostage and was within shooting range of one of the busiest streets in Missoula. Everyone was asked to respond. The campus police officers responded but had no authority to be out there. They transported the gentleman from

the scene to the lock-up facility with no jurisdiction. If there had been a car accident or someone had been injured, there would have been some liability exposure. Under this bill, discussions would have been held in regard to when the police officers from the campus would be called out. Neighborhood calls would probably involve noise and crowd disbursement.

**CHAIRMAN GRIMES** remarked that on line 17 of the bill the wording "for campus-related activities" was stricken. He requested inserting the language "for student-related activities". **Mr. Johnston** did not see a problem with the language. The universities are terribly understaffed and are not volunteering to take on additional work that is not related to the university and campuses.

**SEN. O'NEIL** claimed a one-mile jurisdiction was already in place. No one has stated a reason why the campus police force should have primary jurisdiction outside the campus. In regard to transporting a prisoner from Reserve Street to the Police Station, they would be outside of the one-mile district. He did not see what the bill would be accomplishing.

**SEN. PERRY** remarked this could be a good program and it formalizes a cooperative effort between local police and campus police. The benefit would be that the general public may be better served.

**SEN. WHEAT** stated that Section 3 could contained wording that the agreement would clearly spell out any jurisdiction assumed by campus security that is not campus or student related. **Mr. Johnston** agreed to work on an amendment to address the concerns.

**CHAIRMAN GRIMES** believed inserting the words "student-related" would narrow the potential for the agreement to be used for non-student related activities.

**Motion:** **CHAIRMAN GRIMES** moved that **HB 256 BE AMENDED.**

**Discussion:**

**CHAIRMAN GRIMES** explained his amendment. On line 17, following the wording "and," he would insert the words "for student-related activities".

**Ms. Lane** remarked if the language was left in the bill and an agreement was reached under (3), they would not have authority for the student-related activities.

**CHAIRMAN GRIMES** withdrew the amendment and asked **Mr. Johnston** to work on the amendment.

**SEN. MCGEE** pointed out the importance of the bill addressing the fact that the campus police were police officers and not just people who checked for locked doors. The agreement would elevate the officers to that status. He questioned why campus police were not city police officers who happened to work at the university campus. Billings police officers work at the airport but they are not called airport security officers.

**SEN. PERRY** maintained if the language was restricted to student-related activities, this would kill the intent of the bill.

**Director Slaughter** told him that when he was the Sheriff of Gallatin County, he deputized the campus police so they were deputy sheriffs and could be called anywhere to help at anytime. The question is whether or not the jurisdiction portion of the bill should be added and allowed to be formalized in an agreement with the local police.

**Substitute Motion/Vote:** **SEN. WHEAT** moved that **HB 256 BE INDEFINITELY POSTPONED.** The motion carried unanimously.

#### **EXECUTIVE ACTION ON HB 14**

**Motion/Vote:** **SEN. PERRY** moved that the Committee reconsider **HB 14.** The motion carried on roll call vote 5-3.

**Motion:** **SEN. PERRY** moved that **HB 14 BE CONCURRED IN.**

#### **Discussion:**

**SEN. CROMLEY** agreed with the concept but believed it would be a waste of time to send this to a vote on the Constitution. The public will not want to have less than two trials if they are entitled to the same at this time. There is an alternative method of correcting the problem which would involve keeping a record of the first jury trial so the following review would be on the court record.

**SEN. MCGEE** noted this concept had been brought up in the 1997 Legislative Session. He questioned whether the approach at that time was to have the Justice of the Peace Courts become courts of record.

**SEN. CROMLEY** agreed one way of addressing the issue was to have the Justice of the Peace Courts become courts of record. Amending the Constitution would also address the issue, but he



did not believe the people would vote in favor of this if it was placed on the ballot.

**Ms. Lane** noted this issue has been before the legislature in the last three sessions. The last resort is that the Constitution be changed.

**SEN. MCGEE** asked whether the cure would be for the courts of limited jurisdiction to be courts of record. **Ms. Lane** noted the two sections of the Constitution that appear in the bill state that the right to a jury trial is inviolate.

**SEN. PERRY** withdrew his motion.

**ADJOURNMENT**

Adjournment: 12:00 A.M.

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SEN. DUANE GRIMES, Chairman

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JUDY KEINTZ, Secretary

DG/JK

**EXHIBIT** (jus53aad)